

**FRL-10023-13-Region 1****Notice of Availability of NPDES Aquaculture General Permit (AQUAGP) for
Concentrated Aquatic Animal Production (CAAP) Facilities and Other Related Facilities
in Massachusetts, New Hampshire, and Vermont**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of NPDES General Permit MAG130000, NHG130000,
and VTG130000.

SUMMARY: U.S. Environmental Protection Agency – Region 1 (EPA), is providing a Notice of Availability of the National Pollutant Discharge Elimination System (NPDES) Aquaculture General Permit (AQUAGP) for discharges from Concentrated Aquatic Animal Production (CAAP) facilities and other related facilities to certain waters of the Commonwealth of Massachusetts, State of New Hampshire, and State of Vermont (federal facilities only). This NPDES AQUAGP (“General Permit”) establishes effluent limitations and requirements, effluent and ambient monitoring requirements, reporting requirements, and standard conditions for 12 eligible hatcheries currently covered by individual NPDES permits, five in Massachusetts, five in New Hampshire, and two in Vermont. The Commonwealth of Massachusetts and State of New Hampshire have provided Clean Water Act Section 401 certification for this permit and the State of Vermont has waived the 401 certification requirement.

DATES: The issuance date of this Final General Permit is the date of signature of the Final Permit. The Final General Permit will become effective the first day of the month following 60 days from the date of signature.

ADDRESSES: Copies of the General Permit and Response to Comments are available electronically on EPA Region 1’s website at <https://www.epa.gov/npdes-permits/region-1-final-aquaculture-general-permit>. Written requests for copies should be submitted to U.S. EPA

Region 1, Water Division, Attn: Nathan Chien, 5 Post Office Square, Suite 100, Mail Code 06-1, Boston, Massachusetts 02109-3912, or sent via email to: Chien.Nathan@epa.gov.

FOR FURTHER INFORMATION CONTACT: Nathan Chien, (617) 918-1649.

SUPPLEMENTARY INFORMATION:

Obtaining Authorization: To obtain coverage under the General Permit, facilities meeting the eligibility requirements outlined in Part 4 of this General Permit must submit a notice of intent (NOI) in accordance with 40 CFR 122.28(b)(2)(i) and (ii) within 60 days of the effective date of this General Permit. The NOI must be submitted electronically through EPA's NPDES eReporting Tool (NeT) at <http://cdx.epa.gov>. EPA has determined that the 12 hatcheries identified in Attachment 1 of the Fact Sheet all meet the eligibility requirements for coverage under the General Permit and may be authorized to discharge under the General Permit by this type of notification.

Endangered Species Act: Section 7 of the Endangered Species Act [16 U.S.C. 1431 et al.] (ESA) requires Federal agencies to consult with the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries) and the U.S. Fish and Wildlife Service (USFWS) if their actions have the potential to either beneficially or adversely affect any threatened or endangered species. With respect to species under the jurisdiction of NOAA Fisheries, EPA has analyzed the discharges authorized by the General Permit, and their potential to adversely affect any of the threatened or endangered species or their designated critical habitat areas in the vicinity of the discharges. Based on this analysis, EPA has determined that the issuance of this permit is not likely to adversely affect any threatened or endangered species in the vicinity of the discharge. NOAA Fisheries has concurred with this determination. With respect to species under the jurisdiction of USFWS, the applicant must assess site-specific species impacts and seek input from USFWS directly. The NOI must document that one of the USFWS eligibility criteria is met at the time of submission or the facility is not eligible for coverage. Because each NOI is screened for eligibility upon

submission, EPA has determined that the issuance of this permit is not likely to adversely affect any threatened or endangered species in the vicinity of the discharge.

Essential Fish Habitat (EFH): Under the 1996 Amendments (Pub. L. 104-267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq. (1998)), EPA is required to consult with NOAA Fisheries if EPA's actions or proposed actions that it funds, permits or undertakes "may adversely impact any essential fish habitat" (EFH). 16 U.S.C. 1855(b). EPA finds that the general permit action minimizes adverse effects to aquatic organisms, including those with designated EFH in the receiving waters, including Atlantic salmon and the life stages of a number of coastal EFH designated species. EPA has made the determination that additional mitigation is not warranted under section 305(b)(2) of the Magnuson-Stevens Act and transmitted that determination to NOAA Fisheries. NOAA Fisheries did not propose additional mitigation measures for protection of EFH.

National Historic Preservation Act (NHPA): Facilities which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the NHPA are not authorized to discharge under the General Permit. Based on the nature and location of the discharges, EPA has determined that the 12 hatcheries eligible for authorization under the General Permit do not have the potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

Coastal Zone Management Act (CZM): An approved Coastal Zone Management Program (CZMP) must make a determination that a federally licensed activity affecting the coastal zone is consistent with the Coastal Zone Management Act, 16 U.S.C. 1451 et seq. (CZMA). In the case of general permits, EPA has the responsibility for making the consistency certification request and submitting it to the state for concurrence. EPA requested consistency determinations from both the Massachusetts and the New Hampshire CZMPs and received determinations that the General Permit is consistent with the enforceable policies of both CZMPs.

Appeal of Permit: Any interested person may appeal the General Permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean water Act, 33 U.S.C. 1369(b)(1). This appeal must be filed within 120 days of the General Permit issuance date. Affected persons may not challenge the conditions of the General Permit in further EPA proceedings (see 40 CFR 124.19). Instead, they may either challenge the General Permit in court or apply for an individual permit.

Authority: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: May 3, 2021.

Deborah Szaro,
Acting Regional Administrator,
EPA Region 1.

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